

Northern District of California

Division Procedures

Subject:

**ECF Administrative
Procedures for San
Jose**

Section:

**San Jose
Division**

Comments:

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Last updated: 01/14/2005

Orders:

The procedures for submitting all orders or judgments for all bankruptcy cases or adversary proceedings assigned to the judges in the **San Jose Division** are as follows:

1. All Registered Participants must submit all orders and judgments electronically unless otherwise authorized by the judge assigned in a case. The orders will be uploaded via CM/ECF through the court's electronic order program. The **E-Order Submission Procedures** are provided on the **[court's web site for ECF under the Reference Desk section](#)**. As outlined in the procedures, the format for all orders will need to be changed to accommodate electronic processing by the court.

2. The *Order Setting Telephonic Hearing for Relief from Stay* and the *Order re Pre Hearing Conference on Objection to Claim* are the only two orders that are not uploaded into the E-order program. These two form orders that are pre-signed are filed directly on CM/ECF and entered on the docket by the attorney.

3. When uploading ex parte orders, orders to prohibit or allow the use of cash collateral, temporary restraining orders and orders for a preliminary injunction, a paper copy of the request and any supporting documents that have been electronically filed must be forwarded to the chambers of the assigned judge within 24 hours. Chambers may also require that counsel provide a paper copy of supporting documents filed electronically for other orders. Before submitting an order, counsel may contact the court or chamber's staff as listed below to determine what supporting documents are required to be submitted.

Cases assigned to Marilyn Morgan - contact Millie McGowan at 535-5004.

Cases assigned to James Grube - contact Carol Barnhill at 535-5002.

Cases assigned to Arthur Weissbrodt, contact Peggy Beahm at 535-5140.

4. As outlined in the **E-Order Submission Procedures**, a Court Service List identifying all parties to be served with the order must be attached to each order. The court will

process the orders or judgments according to the current practice. For an interim period of time, paper copies of each order will be served on parties by regular mail from our Bankruptcy Noticing Center (BNC). We anticipate that a change will be implemented when the proposed amendments to the Local Rules are adopted whereby the Notice of Electronic Filing will constitute service and no paper copies will be served on any Registered Participants by the court.

5. All orders signed and filed by the court will contain the date the order was entered on the court's docket. This will be reflected at the top of the order as ***Entered on Docket*** with the date. We anticipate that a change will be implemented upon adoption of the proposed amendments to the Local Rules whereby the Notice of Electronic Filing shall constitute notice of entry of judgment and orders by the court on all Registered Participants. However, a paper copy of the order will be served on all parties on the court service list who are not Registered Participants.

6. Elimination of combined orders - The court will no longer accept orders that provide for two separate actions in one document. For example, the order confirming a chapter 13 plan and the order approving compensation for the debtor's attorney will be submitted in two separate documents. Each separate action would require a separate order.

7. Effective January 1, 2005, all orders entered on the docket will be available in electronic form. To obtain a certified copy of an order, parties will need to submit a check accompanied by a cover letter specifying the order to be certified. If parties need to expedite the certification process for a proposed order that has not been signed yet, a check may be submitted in advance to cover the certification and copy charges. The advance request should indicate when the proposed order was uploaded to the E-Order program on CM/ECF. The current fee for certification is \$9.00 per document. The fee for printing copies of any record or document accessed electronically by the court is ***\$0.10 per page***.

Courtesy Copies for Chambers:

Courtesy copies shall be provided to the chambers of the assigned judge in a case pursuant to the procedures set forth below by each judge. A printed copy of the "Notice of Electronic Filing" shall be attached to the courtesy paper copy of the electronically filed pleading and marked "Judge's copy." All courtesy copies are to be submitted to the court to the attention of the Courtroom Deputy of the judge assigned to the case.

Courtesy Copies for Cases Assigned to Marilyn Morgan or James Grube:

For Judge Morgan's cases, submit copies to the attention of Millie McGowan
For Judge Grube's cases, submit copies to the attention of Carol Barnhill

1. Motions for Relief From Stay:

A. Chambers copy of a cover sheet in all cases.

B. No chambers copy of the remaining papers are required regardless of length.

2. In Adversary Proceedings:

A. No chambers copies are required of the complaint, answer, counterclaim, etc., regardless of length.

B. Chambers copies are required of all Case Management Conference Statements.

C. Chambers copies of other papers are not required unless page count of all related documents, e.g., notice, motion/application, declaration, and points and authorities - exceeds 10 pages. Page count includes exhibits but not proofs of service.

3. In All Chapters:

A. Chambers copies are required of all fee applications.

4. In Chapter 11 Cases:

A. Chambers copies are required of all "first day" motions and all plans and disclosure statements.

B. Chambers copies of other papers are not required unless page count of all related documents, e.g., notice, motion/application, declaration, and points and authorities - exceeds 10 pages. Page count includes exhibits but not proofs of service.

C. No chambers copies are required of the petition, schedules of assets and liabilities, statement of financial affairs and similar documents filed at the onset of case.

5. In Chapter 7 and 13 Cases:

A. Chambers copies of papers are not required unless page count of all related documents, e.g., notice, motion/application, declaration, and points and authorities - exceeds 10 pages. Page count includes exhibits but not proofs of service.

B. No chambers copies are required of the petition, schedules of assets and liabilities, statement of financial affairs and similar documents filed at the onset of case.

Courtesy Copies for Cases Assigned to Arthur Weissbrodt:

For Judge Weissbrodt's cases, submit copies to the *attention of Tanya Bracegirdle*.

1. In All chapters:

A. Unless otherwise directed, chambers copies of all documents are to be submitted with the exceptions as noted below.

B. Chambers copies not required for petitions, schedules of assets and liabilities, statement of financial affairs and similar documents filed at the onset of case.

2. In Adversary Proceedings:

A. Unless otherwise directed, chambers copies of all documents are to be submitted with the exceptions as noted below.

B. Chambers copies not required for complaints, answers, summons, counterclaims, etc.

Pleadings/Documents to be Filed by Paper:

The following documents shall be filed conventionally, not electronically, unless authorized by the Court:

1. Documents to be filed under seal.
2. Trial or hearing exhibits.
3. Other documents as determined by the Court.

Expedited Matters:

With regard to expedited matters, the movant shall contact chambers or the Courtroom Deputy of the assigned judge at the numbers listed below by phone as soon as possible after the document needing expedited treatment has been electronically filed.

Compliance with **B.L.R. 9006-1** is required. In addition, copies of the moving papers with the proposed order shall be delivered to the chambers of the assigned judge within 24-hours of filing the document electronically.

Judge Morgan's chambers: 408-535-5100
Courtroom Deputy: 408-535-5004

Judge Grube's chambers: 408-535-5122
Courtroom Deputy: 408-535-5002

Judge Weissbrodt's chambers: 408-535-5116
Courtroom Deputy: 408-535-5001

Assignment of RS Number:

Each attorney will assign an identification number for each Motion for Relief from Stay filed electronically in the San Jose Division. The number shall consist of the three initials of the attorney filing the motion plus a number. The number for each subsequent motion filed by that attorney will be one higher than the last motion filed. The RS number shall appear below the Case Number on the motion and each related document.

Example:	RS filed by John R. Smith - first motion on CM	RS No. JRS-1
	RS filed by John R. Smith - second motion on CM	RS No. JRS -2

Stipulations with Two or More Signatures:

The following procedure applies when a stipulation or other document requires two or more signatures:

1. The filing attorney shall initially confirm that the content of the document is acceptable to all persons required to sign the document and shall obtain the physical signature of all parties on the documents. For purposes of this rule, physical, facsimile or electronic signatures are permitted. A document may be signed in counterparts. FRBP 9011 applies.
2. The filing attorney shall then file the document electronically, indicating the signatories, e.g., /s/ Jane Doe.
3. The filing attorney shall maintain the signed document for all bankruptcy cases or adversary proceedings at least until the case is closed. Upon request, the signed document must be provided to other parties or the court for review.

Elimination of Combined Applications, Motions or Stipulations with Orders:

Except as otherwise noted, the court will no longer accept applications, motions or stipulations with an order in one document. The motion or stipulation must be filed as a separate entry on the Case Docket. The order must be submitted separately in paper form.

Filing Procedures in Chapter 7 and 11 Cases and Adversary Proceedings:

1. Motions and Related Documents:

Except as otherwise noted, all motions or applications in chapter 7 or 11 cases and adversary proceedings that are set for hearing at the time the document is filed, and any related documents such as points and authorities, declarations in support of the motion, the certificate of service, the RS cover sheet and any order for telephonic hearing in RS matters will be entered on the docket in one entry. The motion will be the lead document and all other documents related to the motion, with the exception of the Notice of Hearing, will each be filed as separate attachments to the motion. Each attachment shall be identified with a brief description of the document type. Each motion and each related document will have a separate pdf when filed.

A sample of the docket text when the motion is docketed with attachments is shown below:

12/23/2003	27	Motion for Relief from Stay RS #RLE-67, Fee Amount \$150. Filed by Creditor Ford Motor Credit Co. (Attachments: # 1 Declaration in Support of Motion # 2 Exhibits to Declaration # 3 RS Cover Sheet # 4 Order Setting Telephonic Hearing For Relief From Stay # 5 Certificate of Service) (Smith, John) (Entered: 12/23/2003)
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2. Notices:

A. Notices for Scheduling Hearings:

When a matter is being set for hearing on the court's calendar, the document is to be titled as a Notice of Hearing. The notice on an application or motion shall be a separately filed document. The notice will be docketed under the Notice of Hearing event, which will allow the moving party to set the hearing on the court's self-setting calendar. This document will reference, or link to, the motion that is being heard. The certificate of service to this notice will have a separate pdf and be filed as an attachment to the notice. The attachment shall be identified with a brief description of the document type.

B. B.L.R. 9014 - 1(b)(3) Motions:

Motions filed under **B.L.R. 9014-1(b)(3)** are submitted with a Notice and Opportunity for Hearing. The motion and any related documents such as the points and authorities, the declaration(s) in support of the motion, and the certificate of service will be entered on the docket in one entry. The motion will be the lead document and all other documents related to the motion will each be filed as separate attachments to the motion, with the exception of the Notice and Opportunity for Hearing.

C. Notice Providing an Opportunity for Hearing:

The Notice and Opportunity for Hearing for a motion filed under **B.L.R. 9014-1(b)(3)** shall be a separately filed document. The document will reference, or link to, the motion filed. The certificate of service for this notice will be a separate pdf filed as an attachment to the notice. This notice provides that a request for hearing or an objection must be filed within 20 days of mailing of the notice. No hearing date will be scheduled on the court's calendar.

D. Notice of Motion:

Documents filed in the San Jose Division should not be titled Notice of Motion. Either Notice of Hearing or Notice of Opportunity for Hearing are to be used.

Filing Procedures in Chapter 13 Cases:

1. Combined documents in one pleading:

The document forms approved by the San Jose judges for their chapter 13 cases that are posted on the court's web site will continue to be used. Some modifications to the titles are being made to correspond with electronic filing procedures, but may otherwise be used in a combined form. For chapter 13 cases only, with the exception of Motions for Relief from Stay, there will not be a lead document or attachments in separate pdf's. Combined documents in chapter 13 cases may be filed in one docket entry with one pdf.

2. Motions and Related Documents (not combined in one document/pdf):

To file documents that are not included in the list of approved combined

forms on the court's web site and are not in one pdf, e.g., Motion for Relief from Stay, Application for Compensation to be set for hearing, Motion to Sell/Refinance, etc. follow the Filing Procedures in Chapter 7 and Chapter 11 cases and Adversary Proceedings outlined above under Motions and Related Documents. The motion is filed in one pdf as the lead document with the related documents each being filed as separate attachments to the motion in separate pdfs. Notices for these types of motions are filed as either a Notice of Hearing or Notice of Opportunity for Hearing as outlined above.

3. Documents requiring an approval signature from the chapter 13 trustee:

Attorneys will continue to forward the documents listed below to the chapter 13 trustee for written approval and the trustee will submit the order to the court. Until other procedures have been coordinated with the trustee, these documents will not be filed electronically at this time.

Order Confirming Plan
Order Confirming Plan with Oral Amendment
Order Approving Attorney's Fees
Statement of Resolution and Order Continuing Confirmation
Order Waiving Business Examination
Stipulation to Extend Scheduling Order
Order Confirming Debtor's Modified Chapter 13 Plan
Order Approving Attorney Fees Pursuant to Guidelines for Payment



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